

October 26, 2005

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, October 26, 2005, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
RHONDA G. HENDERSON, Director of Planning
DIANA C. STULTZ, Zoning Administrator
WILLIAM L. VAUGHN, Director of Community Development
DOTTIE L. BOWEN, Deputy Clerk
DONALD KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION.

Chairman Cuevas called the meeting to order at 6:00 p.m.

County Attorney Brown led the Pledge of Allegiance and Supervisor Breeden gave the Invocation

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APPROVAL OF MINUTES.

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the Regular Meeting held on October 12, 2005.

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TRANSPORTATION DEPARTMENT.

The Board heard a report from Mr. Komara on the activities of the Transportation Department.

Supervisor Kyger observed that another horse and buggy accident occurred on Route 257 (Ottobine Road), west of Dayton. He suggested doing some "spot improvements" just outside the Town of Dayton. Mr. Komara noted that VDOT will work on the contract for that project this winter and plan to start the work in the spring.

Supervisor Floyd noted that there would be additional traffic on Shenlake Drive coming in and out of the new subdivision next to the golf course and he suggested VDOT consider limiting the speed on that road to 25 MPH. Mr. Komara will investigate that possibility.

Chairman Cuevas asked that attention be paid to the storm ditch on Hillyard Road where motorists would be unable to pass because of a number of large holes.

In regard to Shenandoah County's "Resolution Supporting Reasonable Solutions for I-81: a Six Point Plan for the Future," Supervisor Kyger asked staff to study the plan, including exploration of the matter with other jurisdictions in the I-81 Corridor, and report to the Board on how it is applicable to Rockingham County.

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RESOLUTION NO. 05-32 AGRICULTURAL DISASTER RELIEF.

Following a presentation by Mr. Allen Grove, Dairy Science Extension Agent, Virginia Cooperative Extension, on motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

**RESOLUTION
DROUGHT RELIEF FOR COUNTY OF ROCKINGHAM FARMERS**

WHEREAS, the drought conditions in the County of Rockingham have severely affected farmers; and

WHEREAS, the County of Rockingham has received considerably less rain than normal from June 1 through October 7, 2005;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Rockingham, Virginia, instructs the County Administrator to file with the Governor of Virginia a request that the County of Rockingham be designated as a drought disaster area.

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CENTRAL SHENANDOAH PLANNING DISTRICT (CSPDC) COMMISSIONER OF THE YEAR AND BOARD OF DIRECTORS.

The Board received an invitation to nominate a Planning Commissioner of the Year and to make a recommendation concerning an appointment to the CSPDC Board of Directors. On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board supported the nomination of Tracy Pyles from Augusta County for reappointment to the CSPDC Board of Directors.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated October 20, 2005, including information concerning DMV license revenue allocation; VACo Annual Meeting to be held in November; General Reassessment; agreements and contracts.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board certified that the \$1,110.00 received from the DMV Dog and Cat Sterilization Fund will be transmitted to the Rockingham Harrisonburg SPCA to support sterilization of dogs and cats.

In regard to VACo, on motion by Supervisor Breeden seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board designated Supervisor Kyger as the voting delegate and Supervisor Ahrend as an alternate to vote during the business meeting; and, as the region's member's term on the Board of Directors expires this year and a supervisor from the region must be nominated by the region's caucus to

serve a two-year term, supported Tracy Pyles from Augusta County for reappointment.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated October 21, 2005, including information concerning real estate tax exemption requests, 401(a) Special Pay Plan and Lakewood Sewer Project (work completed; staff wrapping up final details).

Mr. Brown reminded the Board that the General Assembly has amended the procedures for exempting certain real estate from local property taxes so that the exemption can now be granted by the Board of Supervisors, following a public hearing on the matter. He pointed out that requests have been received from the following three organizations and suggested that the Board authorize advertising the requests for public hearings on November 16, 2005. Prior to that meeting, Commissioner of Revenue Richard Connellee will provide the Board with information on each of the requests along with his recommendations.

1. Retired Clergy Housing Corporation of the Virginia Conference of United Methodist Church, 4837 Village Lake Drive, Richmond, VA 23234. This organization owns housing for retired clergy. The organization has two properties in Rockingham County it would like to exempt from real estate taxes.
2. Camp Still Meadows, Inc., 11992 Hollar School Road, Linville, VA 22834. Camp Still Meadows is a camp for handicapped children.
3. Crossing Creeks, Inc., P.O. Box 301, Harrisonburg, VA 22801. Crossing Creeks, Inc., apparently provides some therapeutic services on its property.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized advertising public hearings on tax exemption requests from Retired Clergy Housing Corporation of the Virginia Conference of United Methodist Church; Camp Still Meadows, Inc.; and Crossing Creeks, Inc.

On motion by Supervisor Breedon, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following

Resolution No. 05-33 to terminate the 401(a) Special Pay Plan.

**RESOLUTION 05-33 AUTHORIZING
AMENDMENT AND RESTATEMENT OF THE RETIREMENT PLAN
AND CESSATION OF CONTRIBUTIONS UNDER THE RETIREMENT PLAN**

WHEREAS, the County of Rockingham, Virginia (hereinafter, the "Employer"), previously established the County of Rockingham, Virginia 401(a) Special Pay Plan (hereinafter, the "Plan") for the exclusive benefit of its employees and their beneficiaries, which Plan was originally effective as of October 1, 2002; and

WHEREAS, the Employer retained the power to amend and/or terminate the Plan; and

WHEREAS, the Employer now desires to terminate the Plan pursuant to Section 9.02 thereof;

NOW, THEREFORE, BE IT RESOLVED that the Employer hereby terminates the Plan, effective October 26, 2005, pursuant to the terms of Section 9.02 thereof; and

RESOLVED FURTHER, that the County Administrator and Director of Human Resources are authorized to carry out all actions, including notifications, required to effect this termination.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. King's staff report dated October 20, 2005, including information concerning progress on the Technological and Industrial Park (TIP), a meeting of the Virginia Poultry Growers Cooperative (seeking construction of feed receiving facility), progress on the addition to the County Garage (additional work encountered), and stream repairs (projects shared with Page County have been completed).

Mr. King also submitted a staff report for the Public Works Department, dated October 20, 2005, including information concerning the McGaheysville WWTP (draft Preliminary Engineering Report complete); Phase III expansion of the landfill (completeness review from DEQ received); the Grassy Creek Tank (tank substantially complete and in service), Three Springs Water System Analysis; and the Pleasant Run Interceptor.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated October 26, 2005, including information concerning the draft McGaheysville Area Plan (subcommittee review complete), priority projects, tabled requests, and upcoming requests.

Supervisor Floyd made the following statement. "Mr. Chairman, I was reviewing the minutes of the last meeting and realized that when I made the motion to deny the special use permit application of Natural Sand & Gravel, I forgot to state the main reason for my denial. Port Republic is a historic village which has managed to remain relatively unchanged over the years and has retained its charm and tranquility. It is an important asset to Rockingham County's character and tourism industry. I believe that allowing commercial on-site sales and more intensive operations on the property in question would be incompatible with the neighboring uses and detrimental to the neighbors, the village of Port Republic as a whole and to Rockingham County's Civil War tourism. I believe the heavy truck traffic would be detrimental to the neighborhood. I believe these points were obvious, but I want to make sure the record reflects my concerns."

(This statement concerned S05-43, request of Natural Sand & Stone Co., LLC (Dennis Morris), 7341 Tiger Camp Road, Port Republic. This request was tabled by the Board on August 10, 2005, and denied on October 12, 2005.)

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table RZ05-10, request of Carl D. Berkey, 3316 Hemlock Street, Harrisonburg, to rezone 36.809 acres from A2 (General Agricultural) to R2-C (Medium Density Residential with Conditions) on tax parcel 107 (A) 166 and a portion of 107 (A) 167E. The site is located on the northwest end of White Oak Drive and southwest end of Tulip Terrace, at Belmont Estates, in Election District #4. (This request was tabled by the Board on July 27, 2005.)

Supervisor Kyger made the following statement. "Inasmuch that the Board of Supervisors has held its required public hearing on the above request, and inasmuch as the Supervisor of record representing the area of the request has held many meetings with all interested parties to seek a consensus of the rezoning request and taking into account all concerns and facts presented by all parties, therefore, I have come to the conclusion that the resolution of the matter before us falls upon the Board since there is no clear cut consensus among the other parties involved and that there is a reasonable solution that I move to approve the Berkey rezoning request based upon the following being entered as part of the motion to approve the request:

- "1. That the Board, understanding that there are current and potential traffic concerns along Nutmeg Court, upon receipt of a petition from the Belmont community, will restate its request to VDOT for 'traffic calming' measures to be put in

place along Nutmeg Court as discussed with the 'safety committee' from Belmont and local VDOT officials at their meeting in Staunton. That these 'measures' will be put in place during the construction of Phase I of the Berkey development.

- "2. Phase I of the Berkey development will be as proffered and is limited to no more than 23 single-family building lots. Phase I will be allowed access from White Oak. All roads extending in Phase I will end as cul-de-sacs, with the one street extending south toward Dayton being a temporary cul-de-sac that may become a through street in the future upon completion of an access to Phase II from Erickson Avenue on what is today part of the Wampler property, otherwise, all Phase II access other than emergency access will be to Silver Lake Road, and all cul-de-sacs will remain in place as stated above. This allows only the traffic of the 23 permitted building lots to access through Belmont Estates until Berkey Phase II is connected to Erickson Avenue.
- "3. Covenants will be placed in all records of property in Berkey Phase II stating that only emergency ingress and egress will be allowed through Belmont Estates at a gated and locked (Knox Box) connection on Tulip Drive. Gate and Knox Box to be constructed by Berkey and given to Rockingham County; otherwise normal day-to-day access to Berkey Phase II will be to Silver Lake Road until or unless an access is constructed to Erickson Avenue.
- "4. There will be a temporary cul-de-sac where Berkey Phase II Tulip Drive connects to the current Belmont Tulip Drive with the construction of the above-mentioned gate.
- "5. All other proffers submitted will remain in place and Phase II will be constructed from Silver Lake Road toward Belmont Estates as stated in previous proffers."

Supervisor Ahrend seconded the motion, which carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

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COMMITTEE REPORTS.

The Board heard Committee Reports by Board members and staff.

On motion by Supervisor Breedon, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting

recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Buildings and Grounds Committee, the Board declared as surplus one modular unit to be disposed of by staff (one of two received from JMU); the other will be used as a storage unit at the Pleasant Valley complex.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board awarded a contract to Peed & Borts in the amount of \$138,400 for the design of the sewer line to serve the area of the proposed Rockingham Memorial Hospital project.

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PUBLIC HEARING - SPECIAL USE PERMITS.

At 7:00 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following special use permit requests.

Ms. Stultz reviewed the following requests and staff's recommended conditions.

S05-60 Christopher Dwight Crites, 1838 Buffalo Drive, Harrisonburg requesting a flea market in an existing poultry house on property located on the east side of Buffalo Drive (F238) approximately .7 mile north of Old Furnace Road (Route 720) in Linville Magisterial District, Election District #2, zoned A2. Tax Map #95-(A)-67A.

The applicant was present to answer questions; no objections were raised.

S05-61 Steven D. Showalter, 6263 Thomas Spring Road, Bridgewater for an addition to a non-conforming use (commercial greenhouse) on property located on the southeast side of Thomas Spring Road (Route 748) and Wright Lane (Route 870) in Ashby Magisterial District, Election District #4, zoned A1. Tax Map #121-(A)-84A.

The applicant was present to answer questions; no objections were raised.

S05-62 Charles E. Cruse, 5138 Lawyer Road, McGaheysville, for a residence involving a division of land on property located on the northwest side of

Goods Mill Road (Route 708) and Lawyer Road (Route 655) in Stonewall Magisterial District, Election District #3, zoned A1. Tax Map #153-(A)-12.

Mr. Cruse said the plan was to sell a part of his property to a purchaser presently living in England, that he would continue to farm the land until the new landowners arrived in five years to build a home on the site. He submitted a petition to Ms. Stultz with signatures of surrounding property owners who were in favor of the request. He said that neither he nor the new owners would request any further division of the property.

Ms. Stultz noted there was a letter of objection, citing concerns that approval of the request would set a precedent in the area, from Graham and Rachel Lilly.

At 7:18 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-60 Christopher Dwight Crites, 1838 Buffalo Drive, Harrisonburg requesting a flea market in an existing poultry house on property located on the east side of Buffalo Drive (F238) approximately .7 mile north of Old Furnace Road (Route 720) in Linville Magisterial District, Election District #2, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) The structure shall be brought into compliance with the Uniform Statewide Building Code, and the proper permit shall be obtained to change to a commercial use.
- (3) A commercial entrance permit shall be obtained from VDOT's Residency Office and the entrance shall be installed per that permit. A copy of the entrance permit shall be submitted to the Community Development Department prior to obtaining a building permit.
- (4) The Health Department has approved portable restroom facilities for this building. However, the County shall allow the use of portable restroom facilities for a limited amount of time. If this location becomes a permanent location (for more than 2 years), the County shall require restroom facilities in the building.
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community

Development and no work shall be done on the property until such time as a site plan is approved.

- (6) Off-street parking shall comply with the Rockingham County Code.
- (7) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (8) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (9) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-61 Steven D. Showalter, 6263 Thomas Spring Road, Bridgewater for an addition to a non-conforming use (commercial greenhouse) on property located on the southeast side of Thomas Spring Road (Route 748) and Wright Lane (Route 870) in Ashby Magisterial District, Election District #4, zoned A1. Tax Map #121-(A)-84A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (5) Any change in parking with the placement of the new greenhouse shall comply with the Rockingham County Code.
- (6) There shall be no increase in signage approved with this new greenhouse. Any change in signage, either on-premises or off-premises, shall comply with the Rockingham County Code.
- (7) This greenhouse shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that the applicant had indicated there would be no further division of the property, on motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-62 Charles E. Cruse, 5138 Lawyer Road, McGaheysville, for a residence involving a division of land on property located on the northwest side of Goods Mill Road (Route 708) and Lawyer Road (Route 655) in Stonewall Magisterial District, Election District #3, zoned A1

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) An entrance permit shall be obtained from VDOT's Harrisonburg Residency and shall be submitted to the Community Development Department prior to deed exception approval.
- (4) A copy of the approved septic permit shall be submitted to the Community Development Department prior to deed exception approval.
- (5) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one year completion date. However, at time a request is made to construct a residence on the property, all County regulations in effect at that time must be met.
- (6) Any residence constructed on this property shall not be used for rental purposes.
- (7) Any residence on the property shall not be occupied until such time as the County issues a certificate of occupancy. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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PUBLIC HEARING - REZONING APPLICATIONS.

At 7:20 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following rezoning applications.

Ms. Henderson reviewed the following requests and the staff and Planning Commission recommended conditions.

RZ05-21 Trandy Real Estate Holdings, LLC, P O Box 167, Elkton, to rezone 2.83 acres from B1 (General Business) to R3-C (General Residential with Conditions) on a portion of tax parcels 130 (A) 27 and

130 (A) 27A. This site is located on the north side of Spotswood Trail (Route 33) west of Mt. Hermon Road (Route 829) in Election District #5. The Comprehensive Plan designates this area as Agricultural Reserve. R3 zoning allows up to 10 townhouse units per acre. The applicant has proffered to construct no more than 28 townhouses.

On August 16, 2005, staff reported, "Presently, the Board of Supervisors and Planning Commission are conducting a review of the Comprehensive Plan and McGaheysville Area Plan respectively. Until the completion of these reviews, it is recommended that this request be tabled."

On September 7, 2005, the Planning Commission tabled the request, stating, "The Commission asks the applicant to clarify its plans for the landscaped perimeter and the internal street."

On October 3, 2005, the applicant submitted revised proffers that clarified the street and landscaping plans.

On October 4, 2005, stating its concerns had been addressed, the Planning Commission, on a 5-0 vote, recommended approval.

Dick Myers advised that the property would offer no road frontage to Route 33 and would have no value for use for retail services. He noted plans for 28 "high-quality" townhouses. He stated that VDOT has given permission for one entrance on Mount Hermon Road, and the Town of Elkton has given permission for sewer hookups. He pointed out that shrubbery and grassy areas have been added to improve the appearance of the project which would add moderately-priced housing in the Elkton area. He noted that the build out would be over a couple of years with about 14 houses per year. He said the truck drivers have instructions as to where they may unload vehicles.

RZ05-25 Beam Brothers, LLC, No. 1, P. O. Box 183, Mt. Crawford, to rezone .9 acre from A1(Prime Agricultural) to M1 (General Industrial) on a portion of tax parcel 137 (A) 7A and 3.1 acres from M2 (Light Industrial) to M1 (General Industrial) on a portion of tax parcel 137C (3) 1B. This site is located on the west side of South Valley Pike (Route 11), approximately .6 mile north of Dinkel Avenue (Route 257) in Election District #4. The Comprehensive Plan designates this area as Agricultural Reserve in 2010 and Industrial in 2020.

The staff report pointed out that "The area of the request is adjacent to industrial zoning and industrial uses and is consistent with the Comprehensive Plan. The site is served by public water and sewer, and has access to primary roads and

Interstate 81. This rezoning is expected to be compatible with adjacent existing and future industrial uses." The Planning Commission recommended approval 5-0 vote, concurring with staff's recommendation.

Nicholas Kozel, representing the applicant, said 95 percent of the business came from the U.S. Postal Service. He advised that the business would be moved closer to the Interstate so the truck traffic would be mainly on primary roads. He said there would be no loading and unloading of trucks at the site. He pointed out that the property is "split zoned" M1 and M2.

There was no objection expressed.

At 7:35 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

Supervisor Breeden advised, "Dr. Kidd [School Superintendent] has recommended the School Board appoint a liaison committee to look at the school situation on the east side of the County. Although I am in favor of this particular request [RZ05-21 Trandy Real Estate Holdings, LLC, P O Box 167, Elkton, to rezone 2.83 acres from B1 (General Business) to R3-C (General Residential with Conditions)], I am going to move to table it until we have the McGaheysville study to tell us where this proposal will fit into that. I don't think eight homes will be a major impact." Supervisor Floyd seconded the motion to table and it carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

Noting that the Beam proposal would take trucks onto I-81 and Route 11, on motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ05-25 Beam Brothers, LLC, No. 1, P. O. Box 183, Mt. Crawford, to rezone .9 acre from A1(Prime Agricultural) to M1 (General Industrial) on a portion of tax parcel 137 (A) 7A and 3.1 acres from M2 (Light Industrial) to M1 (General Industrial) on a portion of tax parcel 137C (3) 1B. This site is located on the west side of South Valley Pike (Route 11), approximately .6 mile north of Dinkel Avenue (Route 257) in Election District #4.

At 8:08 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following rezoning request.

Ms. Henderson reviewed the background of the request as well as staff's and Planning Commission's recommendations.

The staff, in its recommendations, pointed out, "The site has access to public water and sewer and is located in an area designated by the Comprehensive Plan for future Community Residential and Commercial development. The proposed development has limited access points, and is adjacent to existing residential communities. The Master Plan integrates concepts detailed in the Comprehensive Plan and promotes a development pattern in which residents can live, shop, and recreate in their surrounding community. This mixture of densities, accompanied by open space and recreational amenities, is an efficient and appropriate use of land designated for Community Residential development. The proffers submitted by the applicant accommodate future road improvements and provide a high degree of predictability in regards to the architectural styles, and relationships among various uses. It is envisioned that this development will be an asset to the surrounding area."

The Planning Commission recommended approval by a 5-0 vote. Members of the Planning Commission stated this was an exemplary project that incorporates numerous principles outlined in the Comprehensive Plan and is located in an area designated for residential and commercial development.

RZ05-26 Preston Lake, LLC, 314 Main Street, Port Jefferson, NY, to rezone 20.94 acres from A2 (General Agricultural) to PCD (Planned Commercial District) and 124.69 acres from A2 (General Agricultural) to R5 (Planned Residential) on tax parcels 126 (A) 4, 125 (A) 216, and 125 (A) 219. This request is located southwest of the intersection of Spotswood Trail (Route 33) and Massanetta Springs Road (Route 687) in Election District #3. The Comprehensive Plan designates this area as Commercial and Community Residential. R5 allows 8 dwelling units per gross acre. The proposed Master Plan shows 3.7 dwelling units per gross acre.

Richard J. Hine, representing the applicant, read a statement indicating that the applicant had "tried to be sensitive to the neighbors [by] holding two public hearings and taking into account many of the concerns in the design." He outlined the various meetings he had held with residents and representatives of facilities in the area, with the Virginia Department of Transportation, and others. He noted that traffic considerations had been addressed, that the wooded area had been retained, that the two natural springs on the property would be rejuvenated, and that funds would be provided for volunteer firefighter training. He described the high-quality materials that would be used for the structures and the mix of units from one-bedroom \$120,000 units for college students to

\$500,000 homes. He said the development would be laid out in "traditional urban design." He noted that the economic impact statement that was prepared for the project was very positive.

Larry Erbaugh said he was in favor of the rezoning. He noted that he was impressed with the design and intended use, and he thought the "upscale plan would increase the value of the property and enhance the lives of the residents."

Diane Workman-Derzis said the project met "every specification in the Comprehensive Plan." She described the proposal as "a real opportunity for the County to set a standard which will bring these kinds of developments in the future."

Tom Galvin said the "quality, the amount of diversity and the vistas" are things the County "has to do." He reiterated that the plan meets all the design qualifications of the Comprehensive Plan.

Gene Hauze was in favor of the proposal. He suggested that a school impact analysis be prepared, noting that "the schools in the area are big issues."

Pete Bonavita described the proposal as "a fantastic plan" and congratulated the developer on "a job well done."

At 8:50 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

Supervisor Floyd made the following statement.

"I move to table this request. Although this development is well planned and innovative, I feel that there are other considerations that must be taken into account before we make a final decision on it. First and foremost, we must take into consideration the number of lots that are now rezoned and not built on in the eastern part of the County. Dr. Kidd in his presentation to us some weeks ago, estimated there was some 4,000 and the effect that will have on our school system and roads, particularly U.S.33 east of Harrisonburg. There are studies that will begin in December to address the 33 corridor problem and I feel we should know the results of those studies before we act on this rezoning request, although the applicant addressed the sewer availability in his request, I don't believe he took into consideration the fact that there are now two subdivisions in the process of being built, the Madison property on US 33 and the Figgat property on Lake View Drive and 2 tabled subdivisions (if approved) will add more than a thousand homes that will be using the same sewer lines. Although a design and build

study has been commissioned by the County to address this situation because of the hospital requirements, this estimated 3 million dollar project is still in the undetermined future. Another problem that exists is whether or not Stone Spring Road can be extended through the commercial rezoned Boyers Orchard property. I've been asking this question for months but have not received a definitive answer. This would be important to know in relation to this applicant's proffer on that road. For these reasons chairman, my motion is to table this request."

Supervisor Breeden seconded the motion.

Chairman Cuevas noted that the County has growth problems and challenges to address. He said he assumed that the area would be somewhat developed and that the Board would be naïve to think that piece of property would remain undeveloped "forever." He said the proposal seemed to have "a unique character and assortment of housing for all levels of residents. He mused that, if the developer had brought forward the proposal 15 or 20 years earlier, "no questions would have been asked." However, because of the need to coordinate and make sure all the relevant questions were answered, he said it was important for the Board to give itself time to see that "something positive" came out of any decision it made. He agreed that the proposal appeared to "offer a great deal of possibility."

Supervisor Ahrend said he thought the proposal was the nearest thing he had seen to "smart growth." He said he would support tabling the request, but made it clear that he thought it was a "very worthwhile project."

Supervisor Kyger said the proposal "raised the bar" for everything else that will come in the future. He said standards would be raised across the County. He pointed out that the development is on the border of school districts and would not necessarily feed into the schools on the eastern side of the County. He agreed that there were "issues that needed to be taken into consideration" but added that he thought they were "workable issues."

The motion to table RZ05-26 Preston Lake, LLC, 314 Main Street, Port Jefferson, NY, to rezone 20.94 acres from A2 (General Agricultural) to PCD (Planned Commercial District) and 124.69 acres from A2 (General Agricultural) to R5 (Planned Residential) carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

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PUBLIC HEARING - ZONING ORDINANCE AMENDMENTS.

At 9:00 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following proposed Zoning Ordinance amendments.

Ms. Henderson reviewed the following proposed amendments.

DIVISION 10. RESIDENTIAL PLANNED COMMUNITY DISTRICT R-4

Sec. 17-66. (b) (1) (g): Master plan application language changed from requiring the proposed location of structures to requiring the general location of structures.

DIVISION 11. PLANNED RESIDENTIAL DISTRICT R-5

Sec. 17-79 (b) (4): Change allowable commercial uses from 10% to 20% of total project area.

Sec. 17-79 (f): Permitted uses expanded to include temporary recreational uses.

Sec. 17-80. Temporary Recreational Uses.
Recreational uses of a temporary nature may be located in areas designated for development in later phases. A final plan shall be submitted for administrative approval to the Department of Community Development. The final plan shall describe the temporary recreational use, its location, and the expected duration of the use.

Sec. 17-81. Open Space in Commercial Areas. When the development project contains a commercial area, no less than 15% of the commercial area shall be developed as open space. The open space within the commercial area shall be considered a portion of the 25% open space required for the total project.

Ray Nicely and Richard Blackwell, Blackwell Engineering, said they were in favor of the amendments.

At 9:05 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following Zoning Ordinance amendments.

**AMENDMENT TO
DIVISION 10. RESIDENTIAL PLANNED COMMUNITY DISTRICT R-4**

Sec. 17-66. Master plan and application.

- (a) Pre-application conference. The applicant is encouraged to confer with the zoning administrator and director of planning prior to submission of a

master plan to allow a mutual exchange of information, requirements, and objectives;

- (b) Application requirements. The application for rezoning, together with ten (10) copies of a master plan prepared by a surveyor, engineer, or architect authorized to practice within this state shall be filed with the zoning administrator. Such application shall include the following information as a minimum:
 - (1) Proposed master plan to include the following:
 - (a) General location and various types of land use areas;
 - (b) Approximate location of the open areas which shall comprise not less than twenty-five (25) percent of the whole;
 - (c) General location of village centers with density calculations for commercial housing units;
 - (d) General location of each residential classification and with density calculations for each;
 - (e) Proposed street system including public and private right-of-way;
 - (f) Reserved; see section 17-72(b)(11);
 - (g) General location of structures including all residential units other than duplexes, two-unit attached, and detached single-family residences;
 - (h) Quantitative data including the number and type of dwelling units, number and type of commercial housing units, gross residential densities, and planned acreage of each land use area classification;
 - (i) Proposed pedestrian circulation system.

AMENDMENTS TO DIVISION 11. PLANNED RESIDENTIAL DISTRICT R-5

Sec. 17-79. Permitted uses.

Permitted uses, section 17-64, are excepted and substituted as hereafter:

- (a) Permitted uses. All uses permitted by right or by special use permit in the low density residential district R-1, in the medium density residential district R-2, and in the general residential district R-3, and water treatment and sewage treatment facilities meeting the requirements of the public service district S-1 of this chapter shall be permitted in the planned residential district R-5:
- (b) In addition to the permitted uses, other commercial or non-commercial service uses may be permitted, provided that:
 - (1) Such uses are intended primarily to serve the needs of the project area residents;

- (2) Such uses are designed and located for the convenience of project area residents and to protect the character of the district;
- (3) All subsequent changes in use shall be approved by the planning commission or its agent;and
- (4) All commercial uses shall not total more than twenty (20%) percent of the total project area.
- (c) Any of the uses permitted above, or any use not specifically permitted herein, shall be permitted in the planned residential district R-5 only as approved in the final plan.
- (d) Water filling station, natural source.
- (e) Water hauling;
- (f) Residential human care facility;
- (g) Temporary recreational uses.

(P.C. Ord. No. 84-5, §§ 611.03, 611.03-1, 611.04, 10-10-84; amended for recodification, 1987; P.C. Ord. No. 6-90, 5-23-90; P.C. Ord. No. 95-10, 5-24-95)

Sec. 17-80. Temporary Recreational Uses.

Recreational uses of a temporary nature may be located in areas designated for development in later phases. A final plan shall be submitted for administrative approval to the Department of Community Development. The final plan shall describe the temporary recreational use, its location, and the expected duration of the use.

Sec. 17-81. Open Space in Commercial Areas.

When the development project contains a commercial area, no less than 15% of the commercial area shall be developed as open space. The open space within the commercial area shall be considered a portion of the 25% open space required for the total project.

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RZ05-15, REQUEST OF MOUNTAIN VIEW APARTMENTS, LLC.

County Attorney Brown noted that on September 28, 2005, the Board tabled RZ05-15, request of Mountain View Apartments, LLC, c/o Ingram-Hagen & Co., PLC, 140 Old Bridgewater Road, to rezone 25.155 acres from A2 (General Agricultural) to R3-C (General Residential with Conditions) on tax parcel 125 (A) 3. He advised that the Board invited the applicant to meet with him to determine whether it would be advisable to rezone a 100 foot strip of land in the County that abuts the City of Harrisonburg to R1 so that the lots could be developed in the City. He advised that the Board *could* rezone the 100 foot strip and leave the balance of the request on the table.

On motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as

follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table RZ05-15, request of Mountain View Apartments, LLC, c/o Ingram-Hagen & Co., PLC, 140 Old Bridgewater Road, to rezone 25.155 acres from A2 (General Agricultural) to R3-C (General Residential with Conditions) on tax parcel 125 (A) 3.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the portion of the request for the 100-foot strip of land that occupies the same space as the power line easement in the County, abutting the Harrisonburg City Line, and left the remainder of the request on the table.

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PROPOSAL TO HOUSE SOCIAL SERVICES, THE HEALTH DEPARTMENT, THE COMMUNITY SERVICES BOARD AND DEPARTMENT OF REHABILITATIVE SERVICES IN ONE FACILITY.

Chairman Cuevas noted that the County was working with the Governor's office to move forward on a project to house Social Services, the Health Department, the Community Services Board and Department of Rehabilitative Services in one facility.

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PLEASANT RUN SEWER LINE EXTENSION.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board awarded a contract to Peed & Bortz in the amount of \$138,400 for the design of the sewer line that would serve the area of the proposed Rockingham Memorial Hospital project and other areas north of Port Republic Road to Spotswood Trail.

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CLOSED MEETING.

On motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 9:22 to 9:54 p.m., for a closed meeting pursuant to Section 2.2-3711(A)7, for

consultation with legal counsel and staff pertaining to contractual matters in water contract negotiations and boundary line adjustments with the Town of Elkton, water contracts, contract with a neighboring jurisdiction and annexation discussions regarding two towns.

At 9:54 p.m., Chairman Cuevas called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR AHREND RESOLUTION NO: X05-11
SECOND: SUPERVISOR BREEDEN MEETING DATE: OCT. 26, 2005

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

ABSENT: NONE

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ELKTON BOUNDARY LINE ADJUSTMENT.

On motion by Supervisor Breedon, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board Authorized staff to take the necessary actions to advertise for a public hearing for the proposed boundary line adjustment with Elkton.

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**CONTRACT FOR ROAD CONSTRUCTION SOUTH OF PORT REPUBLIC ROAD
AND WEST OF RIDGEDALE ROAD.**

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved a contract with Associated Developers for the construction of a two-lane road on a 200 foot right-of-way on the property proposed for rezoning by Associated Developers that is south of Port Republic Road and west of Ridgedale Road. This contract will be in effect only if the developer's rezoning is approved by December 15. The Board is not committed to approving the rezoning.

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ADJOURNMENT.

By consensus, the Board adjourned the meeting at 10:00 p.m.

_____,
Chairman